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28 November 2000

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary, FCC  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: CC Docket No. 00-176/

Dear Ms. Salas:

On Tuesday, November 28, 2000, the undersigned, together with Michael Clancy of Covad, made an *ex parte* presentation to Commissioner Susan Ness, Jordan Goldstein, and Kathy Farroba regarding the above-referenced docket. Covad reiterated its opposition to Verizon's application for long distance authority in Massachusetts, and made the following substantive points:

Linesharing compliance

Despite Verizon's repeated assertions that it has been in compliance with the Commission's linesharing rules since June 6, 2000, it was not, and continues not to be, in compliance. Covad has found consistently that the linesharing orders it has submitted in Massachusetts are simply not being provisioned. To explore the reasons for the lack of provisioning, Covad just last week conducted central office inspections in three Massachusetts towns – West Roxbury, Worcester, and Acton – to see whether Verizon had completed the linesharing implementation that it has represented to the Commission it has completed. Verizon officials accompanied Covad on each tour. In West Roxbury, despite the fact that Verizon had told both Covad and the Commission that all splitter installations were complete in Massachusetts, the splitter was only installed *on the morning of the walkthrough* – November 21, 2000. Even then, the cross-connect work had not yet been completed in that office. Verizon is holding fifteen Covad linesharing orders in that central office pending completion of splitter installation. In Acton, the splitter was installed but empty -- without a single splitter card in it, so the splitter installation was not complete. Verizon is holding nine Covad linesharing orders in that single office while splitter installation work is being completed. In Worcester, cross connect work has not yet been completed. Twenty-seven Covad linesharing orders are being held by Verizon in that single office in Worcester pending completion of the cross connect work.

In sum, Verizon is not in compliance with the Commission's linesharing rules. Verizon has not completed splitter installations, as demonstrated by the three central

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office walkthroughs last week. Despite Verizon's representations to the Commission, it is not yet ready to provide linesharing to Covad, nearly six months after the Commission's deadline.

#### Adjustments to performance

Verizon plays a game of "hide the performance" with its loop data. Verizon claims 95-98% on-time performance for DSL loops, when its actual performance reported in PR 3-10 is 51%. How is this possible? Covad noted that for on-time performance, Verizon cites PR 4-14 through 4-17, as well as PR 4-04, all of which permit Verizon to remove "orders that were not complete" from its reported performance. Thus, Verizon is reporting its on-time performance only for loops that it completed – excluding all those it did not complete (which are all loops that would, of course, be late). The only true measure of Verizon's on-time performance is PR 3-10, which measures the percentage of time that Verizon completes DSL loop delivery in the six day interval that Verizon commits to in Massachusetts. If it doesn't complete the loop in that interval, Verizon is not "on-time." Verizon is only "on-time" 51% of the time (for July 2000). Even adjusting for all of its own excuses, Verizon's own experts state that Verizon's on-time performance is still a pathetic 62%. Forget about Verizon's performance for itself – there is no way Covad can compete if it gets its loops delivered on-time so infrequently.

#### Consequences for poor performance

Because the Massachusetts performance assurance plan (PAP) does not include DSL as a method of entry (MOE), Covad will receive extremely limited financial penalties from Verizon for the BOC's poor performance in Massachusetts. In October 2000 in New York, Verizon owed CLECs over \$2.6 million dollars for its poor wholesale performance. If this is the type of post-long distance entry wholesale performance that the Commission is willing to tolerate, then the Commission should by all means grant Verizon long distance authority in Massachusetts. Armed with such authority, Verizon will continue the horrible performance it currently demonstrates in Massachusetts, but chose to wage a war of attrition on CLECs, paying fines to them while they go out of business because they cannot provide service to their customers. Without a DSL MOE in Massachusetts, Covad will receive none of this money, but will still suffer loss of customers from Verizon's poor performance. In its recent order addressing the PAP, the Massachusetts DTE recognized the need to add DSL as an MOE, but chose to wait and see what New York does, and then decide whether to follow New York at some unspecified point in the future. In addition, there are only two DSL metrics in the entire PAP, and an on-time loop delivery metric is not one of them. As a result, Verizon can continue to slowly drive Covad out of business by performing poorly, but not suffer any consequences as a result.

#### Maintenance and Repair "I" codes

In the debate, Verizon claimed that its maintenance "I" codes show that it performs as well for CLECs as for itself in providing quality loops. The numbers submitted by Verizon to the Commission tell a different story. In its November 16, 2000, *ex parte* letter reporting on the "weighted average" for loop installation troubles, a picture of discrimination emerges from the underlying xDSL and 2 wire digital loop results. In July

2000, for example, CLECs ordering 2 wire digital loops suffered trouble outages for 11.59% of those loops, whereas Verizon suffered outages only 1.23% of the time for the same 2 wire digital loops – a nearly ten fold difference. Similarly, CLECs ordering xDSL loops in July 2000 were nearly 3 times as likely to suffer outages as Verizon customers.

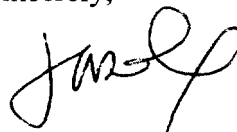
Massachusetts data reconciliation

The Massachusetts DTE undertook a “data reconciliation” of Covad loops that were completed by Verizon from February 7-11, 2000 in order to determine Verizon’s on-time performance. The DTE examined 132 of Covad’s loops and found that 116 were provided on time. Covad argued that this is a meaningless finding, because the DTE examined only those loops that were “completed by Verizon” between February 7-11, and did not examine those loops that were due, but that Verizon failed to complete – thus providing a self-fulfilling prophecy of on-time performance.

CLEC specific data

Covad argued that, despite requests from Covad in July 2000 and again in August 2000 for the CLEC-specific data underlying Verizon’s performance in Massachusetts, Verizon only provided that data to Covad on November 13, 2000, and then still refused to provide the Covad-specific underlying data used to compute those metrics. Verizon argued in the debate that it provided Bell Atlantic/NYNEX merger data, and would have provided Massachusetts consolidated arbitration data if Covad signed on to it – but failed to disclose that neither data set would include any DSL metrics whatsoever.

Sincerely,



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